

# **Exhibit F**

## **ENERGIZER BRANDS ENERGIZER BRANDS vs MY BATTERY SUPPLIER**

May 21, 2020

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May 21, 2020  
4:01 p.m.

24 Deborah J. Bateman, Court Reporter

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1 APPEARANCES OF COUNSEL

2 On Behalf of the Plaintiff:

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1 TELEPHONIC CONFERENCE BETWEEN PARTIES

2 May 21, 2020

03:59:50PM

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03:59:50PM

4 MS. HUDA: This is Sandra Hudak for My  
5 Battery Supplier, MBS. We asked for this conference  
6 today to go through Energizer's objections and responses  
7 to the document requests and interrogatories. Energizer  
8 has seemed to object to almost all of our requests --  
9 (audio interference) --

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04:01:48PM

10 (Court reporter clarification)

11 MS. HUDA: Energizer has seemed to  
12 object to almost all of our requests and has stated that  
13 it won't produce any documents or interrogatories  
14 responsive to our requests -- almost all of the requests,  
15 so we wanted to have this call to see if we could  
16 understand Energizer's issues a little bit better and  
17 see if we can come to any compromise, or if we will  
18 just need to move to compel responses on all of our  
19 requests.

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20 So to start from the beginning, it seems like  
21 Energizer has a fundamental objection to the definition  
22 of "Energizer products" in both the document requests and  
23 the interrogatories.

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24 Can you please explain your position on that?

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1 something that you have that suggests that Energizer's  
 2 profits and revenues have absolutely any relevance to an  
 3 issue in this case, please feel free to follow up. But  
 4 we don't see it, and we don't think it's there.

5 MR. BERKOWITZ: So there is case law on this.  
 6 Energizer's profits on these products are relevant to the  
 7 damages analysis. Even if Energizer is just seeking  
 8 disgorgement or statutory damages, it's something that  
 9 the Court will take into account in determining a damages  
 10 amount, so that's where it comes from.

11 MS. NAGLE: Right. Well, if you can --

12 MR. FINNERTY: Can you send us that case law,  
 13 Mark?

14 MS. NAGLE: Yes, please.

15 MR. BERKOWITZ: Sure.

16 MS. HUDAK: Okay. So let's move on to the  
 17 next request. Request No. 11 seeks all documents  
 18 concerning plaintiff's attempts to purchase or purchases  
 19 of Energizer products from defendant. Our understanding  
 20 is that Energizer's refusing to provide any documents or  
 21 information relating to this and similar requests except  
 22 for information, quote, specific to the (inaudible)  
 23 underlying this lawsuit. And one of the reasons put in  
 24 the objection was that Energizer has thousands of

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1 employees, and it can't ask each one.

04:37:59PM

2 So I guess our primary -- or one of the first  
 3 questions on this is has Energizer asked its relevant  
 4 employees about their knowledge of MBS such as the  
 5 e-commerce people who track the activities of Amazon  
 6 sellers and other online sellers?

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7 MS. NAGLE: So here's sort of where we  
 8 probably just keep running into the same issue which is  
 9 that Energizer hasn't sold any batteries to MBS, so  
 10 there's nobody to ask. There's no relevant individual  
 11 because this is not a relationship that has existed. And  
 12 so what we know is what gave rise to this lawsuit, and so  
 13 we are happy to and will review those records, and if  
 14 there's anything non-privileged related to any purchases  
 15 or what's asked for in this request, we'll produce it.  
 16 But beyond that, because it's a nonexistent relationship,  
 17 the request essentially asks that we, like, search every  
 18 record in Energizer's history and ask every employee  
 19 going back to 2009 if they're -- by any chance, they  
 20 happened to ever run into or discuss MBS or attempt to  
 21 purchase anything from MBS. It's just a needle in a  
 22 haystack.

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1 that this has occurred and that Energizer did have  
2 knowledge, if there are people or there's some  
3 transaction that you're aware of, I mean, share it with  
4 us, and we're happy to run it down. But this is -- this  
5 is a needle in a haystack. We have no reasonable basis  
6 to believe that there's anything that exists on this  
7 other than related to, you know, what came up in fall of  
8 last year.

9 MS. HUDAK: Okay. So focusing back,

10 request -- documents concern -- just -- Energizer --

11 MR. FINNERTY: You're breaking up, Sandra.

12 MS. HUDAQ: I'm sorry about. Can you hear  
13 me --

14 MR. FINNERTY: Sorry, Sandra.

15 MS. HUDAK: -- better?

16 | MR. FINNERTY: Yeah. You were cutting --

17 MS. HUDAQ: Can you hear me better?

18 MR. FINNERTY: -- out every couple of -- you  
19 were cutting out every couple of seconds. I'll just --  
20 someone will let you know if it keeps up; otherwise, you  
21 may need to try to redial.

22 MS. HUDAQ: Okay. Thank you for letting me  
23 know. Is this better?

24 MR. FINNERTY: Yeah, this is. Thank you.

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1 MS. HUDA: Okay. Great.

2 We were talking about Request No. 11 here  
 3 which is asking for documents concerning plaintiff's  
 4 attempts to purchase Energizer products from defendants,  
 5 test purchases. Has Energizer asked the employees who  
 6 would be responsible for such test purchases about  
 7 documents that are responsive to this request?

8 MS. NAGLE: Yeah. So we are -- so as we  
 9 stated, we're going to produce non-privileged documents  
 10 like that, so we are -- we're pulling -- we will pull  
 11 that together, if any exists, yes.

12 MS. HUDA: Okay. And then generally -- I  
 13 mean, so this Request No. 11 is asking about test  
 14 purchases. And then Request No. 12 asks about documents  
 15 concerning plaintiff's offer to sell products to  
 16 defendant, including offers to sell bulk products to  
 17 defendant.

18 Has Energizer asked relevant employees about  
 19 documents responsive to this request?

20 MS. NAGLE: Yeah, that's -- so we answered.  
 21 We said there are no documents responsive because  
 22 Energizer has not made such offers.

23 MS. HUDA: Okay. So Energizer's asked all  
 24 relevant employees?

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1 MS. NAGLE: We have conducted a reasonable  
2 inquiry.

04:42:03PM

3 MR. FINNERTY: I mean, you have --

04:42:05PM

4 MS. NAGLE: I mean --

04:42:06PM

5 MR. FINNERTY: Do you have names of --

04:42:07PM

6 MS. NAGLE: If you guys have names, I mean,  
7 share them with us. We continue to tell you that we  
8 haven't sold to MBS. And I -- I don't know if we're just  
9 crossing each other here in a way that's unclear, but we  
10 have no information to suggest or support your position  
11 that Energizer has sold or offered to sell products to My  
12 Battery Supplier. And so we've conducted -- that front,  
13 and we have no documents, and that's what we've said.

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1                   MR. BERKOWITZ: Okay. Let's try to set up a  
2 time for next week.

05:02:29PM

3                   MS. NAGLE: Okay. Send us some times.

05:02:33PM

4                   MR. FINNERTY: Sounds good, Mark.

05:02:35PM

5                   MS. NAGLE: Thank you.

05:02:36PM

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7                   (Whereupon the meeting was adjourned at  
8 5:02 p.m.)

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1 COMMONWEALTH OF MASSACHUSETTS

2 ESSEX COUNTY

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4 I, Deborah J. Bateman, Notary Public, in and for  
5 the Commonwealth of Massachusetts, do hereby certify that  
6 the foregoing record, pages 1 through 47, inclusive, is a  
7 complete, accurate, and true transcription of my  
8 stenographic notes taken in the aforementioned matter to  
9 the best of my skills and ability.

10 I witness whereof, I have set my hand and seal  
11 this 28th day of May, 2020.

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17 Deborah J. Bateman, Notary Public in and  
18 for The Commonwealth of Massachusetts  
19 My Commission Expires: November 2, 2023